

States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1431 et seq.], the United States International Broadcasting Act of 1994 [22 U.S.C. 6201 et seq.], the Foreign Affairs Reform and Restructuring Act of 1998, and other provisions of law consistent with such purpose may be used to carry out the grant authority of subsection (b) of this section.

**(d) Standards; oversight**

Radio Free Afghanistan shall adhere to the same standards of professionalism and accountability, and shall be subject to the same oversight mechanisms, as other services of RFE/RL, Incorporated.

(Pub. L. 107–148, §2, Mar. 11, 2002, 116 Stat. 64.)

REFERENCES IN TEXT

The United States Information and Educational Exchange Act of 1948, referred to in subsec. (c), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title, and Tables.

The United States International Broadcasting Act of 1994, referred to in subsec. (c), is title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Foreign Affairs Reform and Restructuring Act of 1998, referred to in subsec. (c), is division G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–761, as amended. For complete classification of division G to the Code, see Short Title note set out under section 6501 of this title and Tables.

CODIFICATION

Section was enacted as part of the Radio Free Afghanistan Act, and not as part of the United States International Broadcasting Act of 1994 which comprises this chapter.

**§ 6216. Special authority for surge capacity**

**(a) Emergency authority**

**(1) In general**

Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance outside the United States as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

**(2) Supersedes existing law**

The authority of paragraph (1) shall supersede any other provision of law.

**(3) Surge capacity defined**

In this subsection, the term “surge capacity” means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis abroad.

**(4) Duration**

The President is authorized to exercise the authority provided in subsection (a)(1) for a period of up to six months, which may be renewed for one additional six month period.

**(b) Authorization of appropriations**

**(1) In general**

There are authorized to be appropriated to the President such sums as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed \$25,000,000.

**(2) Availability of funds**

Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

**(3) Designation of appropriations**

Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the “United States International Broadcasting Surge Capacity Fund”.

**(c) Report**

The annual report submitted to the President and Congress by the Broadcasting Board of Governors under section 6204(a)(9) of this title shall provide a detailed description of any activities carried out under this section.

(Pub. L. 103–236, title III, §316, as added Pub. L. 110–53, title XX, §2031(c), Aug. 3, 2007, 121 Stat. 516.)

FINDING; SENSE OF CONGRESS

Pub. L. 110–53, title XX, §2031(a), (b), Aug. 3, 2007, 121 Stat. 515, provided that:

“(a) FINDING.—Congress finds that the report of the National Commission on Terrorist Attacks Upon the United States stated that ‘Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.’

“(b) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations; and

“(2) public diplomacy should reaffirm the paramount commitment of the United States to democratic principles, including preserving the civil liberties of all the people of the United States, including Muslim-Americans.”

**CHAPTER 72—NUCLEAR PROLIFERATION PREVENTION**

**SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION**

Sec.

6301. Imposition of procurement sanction on persons engaging in export activities that contribute to proliferation.

6302. Role of international financial institutions.

- Sec.  
6303. Prohibition on assisting nuclear proliferation through provision of financing.  
6304. Reporting on demarches.  
6305. Definitions.

SUBCHAPTER II—INTERNATIONAL ATOMIC  
ENERGY AGENCY

6321. Bilateral and multilateral initiatives.  
6322. IAEA internal reforms.  
6323. Reporting requirement.  
6324. Definitions.

SUBCHAPTER I—SANCTIONS FOR NUCLEAR  
PROLIFERATION

**§ 6301. Imposition of procurement sanction on persons engaging in export activities that contribute to proliferation**

**(a) Determination by President**

**(1) In general**

Except as provided in subsection (b)(2) of this section, the President shall impose the sanction described in subsection (c) of this section if the President determines in writing that, on or after the effective date of this subchapter, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 6305(2) of this title), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

**(2) Persons against which the sanction is to be imposed**

The sanction shall be imposed pursuant to paragraph (1) on—

- (A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;
- (B) any successor entity to that foreign person or United States person;
- (C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and
- (D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

**(3) Other sanctions available**

The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

**(4) Definition**

For purposes of this subsection, the term “requisite knowledge” means situations in which a person “knows”, as “knowing” is defined in section 78dd–2 of title 15.

**(b) Consultation with and actions by foreign government of jurisdiction**

**(1) Consultations**

If the President makes a determination described in subsection (a)(1) of this section with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

**(2) Actions by government of jurisdiction**

In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1) of this section. The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

**(3) Report to Congress**

Not later than 90 days after making a determination under subsection (a)(1) of this section, the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

**(c) Sanction**

**(1) Description of sanction**

The sanction to be imposed pursuant to subsection (a)(1) of this section is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2) of this section.

**(2) Exceptions**

The President shall not be required to apply or maintain the sanction under this section—

- (A) in the case of procurement of defense articles or defense services—
  - (i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;
  - (ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the de-

fense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

#### (d) Advisory opinions

Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

#### (e) Termination of sanction

The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) of this section has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1) of this section.

#### (f) Waiver

##### (1) Criterion for waiver

The President may waive the application of the sanction imposed on any person pursuant

to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

#### (2) Notification of and report to Congress

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(Pub. L. 103-236, title VIII, § 821, Apr. 30, 1994, 108 Stat. 508.)

#### REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (a)(1), as 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note below.

#### CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

#### EFFECTIVE DATE

Section 831 of Pub. L. 103-236 provided that: “The provisions of this part [part B (§§ 821-831) of title VIII of Pub. L. 103-236, enacting this subchapter and sections 2799aa to 2799aa-2 of this title, amending sections 262d, 2295a, 2295b, 2375, 2429a-1, 2593a, 2708, 2753, and 2780 of this title, section 635 of Title 12, Banks and Banking, and section 2160c of Title 42, The Public Health and Welfare, repealing sections 2429 and 2429a of this title, and enacting provisions set out as a note under section 2799aa of this title], and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act [Apr. 30, 1994].”

#### SHORT TITLE

Section 801 of title VIII of Pub. L. 103-236 provided that: “This title [enacting this chapter and sections 2799aa to 2799aa-2 of this title, amending sections 262d, 2295a, 2295b, 2375, 2429a-1, 2593a, 2708, 2753, 2780, and 3281 of this title, section 635 of Title 12, Banks and Banking, and section 2160c of Title 42, The Public Health and Welfare, repealing sections 2429 and 2429a of this title, and enacting provisions set out as notes under this section and section 2799aa of this title] may be cited as the ‘Nuclear Proliferation Prevention Act of 1994’.”

#### TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT

Section 851 of Pub. L. 103-236, which provided that on date of enactment of first Foreign Relations Authorization Act that was enacted after enactment of Pub. L. 103-236, the provisions of parts A (amending section 3281 of this title) and B (see Effective Date note above) of title VIII of Pub. L. 103-236 were to cease to be effective, the amendments made by those parts were to be repealed, and any provision of law repealed by those parts was to be reenacted, was itself repealed by Pub. L. 104-164, title I, § 157(a), July 21, 1996, 110 Stat. 1440.

ASSIGNMENT OF CERTAIN FUNCTIONS RELATING TO PRO-CUREMENT SANCTIONS ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION

Memorandum of President of the United States, Mar. 5, 2007, 72 F.R. 11283, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Secretary of Commerce[, and] the Director of National Intelligence

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, the functions of the President under section 821 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6301) are assigned to the Secretary of State, except that the function of the President under section 821(c)(2)(A) is assigned to the Secretary of Defense.

In the performance of their respective functions under this memorandum, the Secretaries of State and Defense shall, as appropriate, consult each other, the Secretaries of the Treasury and Commerce, and the heads of other departments and agencies.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

### **§ 6302. Role of international financial institutions**

The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 262d(a) of this title to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(Pub. L. 103-236, title VIII, § 823(a), Apr. 30, 1994, 108 Stat. 512.)

### **§ 6303. Prohibition on assisting nuclear proliferation through provision of financing**

#### **(a) “Prohibited activity” defined**

For purposes of this section, the term “prohibited activity” means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

- (1) the acquisition of unsafeguarded special nuclear material; or
- (2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.

#### **(b) Prohibition**

To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

#### **(c) Presidential determination and order with respect to United States and foreign persons**

If the President determines,<sup>1</sup> that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) of this section applies), the President shall, by order, impose the sanctions described in subsection (d) of this section on such person.

#### **(d) Sanctions**

The following sanctions shall be imposed pursuant to any order issued under subsection (c) of

this section with respect to any United States person or any foreign person:

#### **(1) Ban on dealings in Government finance**

##### **(A) Designation as primary dealer**

Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

##### **(B) Service as depository**

The person may not serve as a depository for United States Government funds.

#### **(2) Restrictions on operations**

The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

#### **(e) Consultation with and actions by foreign government of jurisdiction**

##### **(1) Consultations**

If the President makes a determination under subsection (c) of this section with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

##### **(2) Actions by government of jurisdiction**

##### **(A) Suspension of period for imposing sanctions**

In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) of this section imposing any sanction.

##### **(B) Coordination with activities of foreign government**

Following consultations described in paragraph (1), the order issued by the President under subsection (c) of this section imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

##### **(C) Extension of period**

After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) of this section imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

<sup>1</sup> So in original.

**(3) Report to Congress**

Before the end of the 90-day period beginning on the date on which an order is issued under subsection (c) of this section, the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

**(f) Termination of sanctions**

Any sanction imposed on any person pursuant to an order issued under subsection (c) of this section shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

**(g) Waiver**

The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) of this section if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

**(h) Enforcement action**

The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

(1) any violation of subsection (b) of this section; or

(2) any order issued pursuant to subsection (c) of this section.

**(i) “Knowingly” defined****(1) In general**

For purposes of this section, the term “knowingly” means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

**(2) Knowledge of the existence of a particular circumstance**

If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

**(j) Scope of application**

This section shall apply with respect to prohibited activities which occur on or after the date this subchapter takes effect.

(Pub. L. 103-236, title VIII, § 824, Apr. 30, 1994, 108 Stat. 512; Pub. L. 104-164, title I, § 157(b), July 21, 1996, 110 Stat. 1440.)

## REFERENCES IN TEXT

For the date this subchapter takes effect, referred to in subsec. (j), as 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note under section 6301 of this title.

## AMENDMENTS

1996—Subsec. (c). Pub. L. 104-164, § 157(b)(1), struck out “in writing after opportunity for a hearing on the record” after “If the President determines,”.

Subsec. (e). Pub. L. 104-164, § 157(b)(2), (3), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e). Text read as follows: “Any determination of the President under subsection (c) of this section shall be subject to judicial review in accordance with chapter 7 of part I of title 5.”

Subsecs. (f) to (k). Pub. L. 104-164, § 157(b)(3), redesignated subsecs. (g) to (k) as (f) to (j), respectively. Former subsec. (f) redesignated (e).

**§ 6304. Reporting on demarches**

(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 3282(c) of this title, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term “demarche” means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

(Pub. L. 103-236, title VIII, § 828(b), Apr. 30, 1994, 108 Stat. 520.)

**§ 6305. Definitions**

For purposes of this subchapter—

(1) the term “foreign person” means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term “goods or technology” means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms

are defined in section 3203 of this title), all export items designated by the President pursuant to section 2139a(c) of title 42, and all technical assistance requiring authorization under section 2077(b) of title 42, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term “IAEA safeguards” means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term “nuclear explosive device” means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term “non-nuclear-weapon state” means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term “special nuclear material” has the meaning given that term in section 2014(aa) of title 42;

(7) the term “United States person” means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term “unsafeguarded special nuclear material” means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

(Pub. L. 103-236, title VIII, §830, Apr. 30, 1994, 108 Stat. 521.)

#### REFERENCES IN TEXT

This subchapter, referred to in text, was in the original a reference to this part, meaning part B of title VIII of Pub. L. 103-236, which is classified principally to this subchapter. For complete classification of part B to the Code, see Effective Date note set out under section 6301 of this title and Tables.

### SUBCHAPTER II—INTERNATIONAL ATOMIC ENERGY AGENCY

#### § 6321. Bilateral and multilateral initiatives

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including

the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

(Pub. L. 103-236, title VIII, §841, Apr. 30, 1994, 108 Stat. 522.)

#### PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

Pub. L. 108-136, div. C, title XXXVI, §3631, Nov. 24, 2003, 117 Stat. 1825, provided that:

“(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

“(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

“(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

“(b) CONTINGENT REPORT.—(1) Except as provided in paragraph (2), the President shall, not later than 12 months after the date of the enactment of this Act [Nov. 24, 2003], submit to Congress a report on—

“(A) the efforts made by the United States to initiate the discussions described in subsection (a);

“(B) the results of those efforts; and

“(C) any plans for further discussions and the purposes of such discussions.

“(2) Paragraph (1) shall not apply if no efforts referred to in paragraph (1)(A) have been made.”

### § 6322. IAEA internal reforms

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a “hot line” for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material,

and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material (“significant quantity”) needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection;<sup>1</sup> and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

(Pub. L. 103-236, title VIII, §842, Apr. 30, 1994, 108 Stat. 523.)

### § 6323. Reporting requirement

#### (a) Report required

The President shall, in the report required by section 3281(a) of this title, describe—

(1) the steps he has taken to implement sections 6321 and 6322 of this title, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 6321 and 6322 of this title.

#### (b) Contents of report

Each report under paragraph (1)<sup>1</sup> shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since April 30, 1994, in pursuit of each of the objectives set forth in sections 6321 and 6322 of this title;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 6321 and 6322 of this title;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 6321 and 6322 of this title.

<sup>1</sup> So in original. Probably should be “section;”.

<sup>1</sup> So in original. Probably should be “subsection (a) of this section”.

(Pub. L. 103-236, title VIII, §843, Apr. 30, 1994, 108 Stat. 524.)

#### § 6324. Definitions

As used in this subchapter—

(1) the term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term “IAEA” means the International Atomic Energy Agency;

(3) the term “near real time material accountancy” means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term “special fissionable material” has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term “the Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms “IAEA safeguards”, “non-nuclear-weapon state”, “nuclear explosive device”, and “special nuclear material” have the meanings given those terms in section 6305 of this title.

(Pub. L. 103-236, title VIII, §844, Apr. 30, 1994, 108 Stat. 524.)

### CHAPTER 73—INTERNATIONAL RELIGIOUS FREEDOM

Sec.	
6401.	Findings; policy.
6402.	Definitions.

#### SUBCHAPTER I—DEPARTMENT OF STATE ACTIVITIES

6411.	Office on International Religious Freedom; Ambassador at Large for International Religious Freedom.
6412.	Reports.
6413.	Establishment of religious freedom Internet site.
6414.	High-level contacts with nongovernmental organizations.
6415.	Programs and allocations of funds by United States missions abroad.
6416.	Equal access to United States missions abroad for conducting religious activities.
6417.	Prisoner lists and issue briefs on religious freedom concerns.

#### SUBCHAPTER II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

6431.	Establishment and composition.
6432.	Duties of Commission.
6432a.	Powers of the Commission.
6432b.	Commission personnel matters.
6433.	Report of Commission.
6434.	Applicability of other laws.
6435.	Authorization of appropriations.
6435a.	Standards of conduct and disclosure.
6436.	Termination.

#### SUBCHAPTER III—PRESIDENTIAL ACTIONS

##### PART A—TARGETED RESPONSES TO VIOLATIONS OF RELIGIOUS FREEDOM ABROAD

6441.	Presidential actions in response to violations of religious freedom.
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Sec.	
6442.	Presidential actions in response to particularly severe violations of religious freedom.
6443.	Consultations.
6444.	Report to Congress.
6445.	Description of Presidential actions.
6446.	Effects on existing contracts.
6447.	Presidential waiver.
6448.	Publication in Federal Register.
6449.	Termination of Presidential actions.
6450.	Preclusion of judicial review.

##### PART B—STRENGTHENING EXISTING LAW

6461.	Exports of certain items used in particularly severe violations of religious freedom.
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#### SUBCHAPTER IV—REFUGEE, ASYLUM, AND CONSULAR MATTERS

6471.	Use of Annual Report.
6472.	Reform of refugee policy.
6473.	Reform of asylum policy.
6474.	Studies on effect of expedited removal provisions on asylum claims.

#### SUBCHAPTER V—MISCELLANEOUS PROVISIONS

6481.	Business codes of conduct.
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### § 6401. Findings; policy

#### (a) Findings

Congress makes the following findings:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation’s founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that “Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.”. Article 18(1) of the International Covenant on Civil and Political Rights recognizes that “Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching”. Governments